

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Brian Imholte on behalf of himself and all others similiary situated,

Plaintiff,

v.

US Bank, National Association, Lawgix Lawyers, LLC, Lawgix, Inc., and Michael D. Johnson, Esq., individually,

Defendants.

CASE NO 19-cv-01627-DWF-DTS

**ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT
BY DEFENDANT LAWGIX LAWYERS, LLC**

As and for its Answer to the Complaint of Plaintiff Brian Imholte ("Plaintiff"), Defendant Lawgix Lawyers, LLC ("Lawgix Lawyers") by and through its undersigned counsel, denies each and every matter, allegation, claim, and count in Plaintiff's Complaint, except as admitted or otherwise qualified herein:

INTRODUCTION

1. Paragraph 1 does not contain allegations that require a response. To the extent that Paragraph 1 alleges any wrongdoing, Lawgix Lawyers denies that it violated any statutes or otherwise acted unlawfully.

2. Paragraph 2 does not contain allegations that require a response. To the extent that Paragraph 2 alleges any wrongdoing, Lawgix Lawyers denies that it violated any statutes or otherwise acted unlawfully.

JURISDICTION

3. To the extent Paragraph 3 asserts a legal conclusion, no response is required.

To the extent a response is required, Lawgix Lawyers admits that this Court has jurisdiction over the claims asserted by Plaintiff.

4. To the extent Paragraph 4 asserts a legal conclusion, no response is required.

To the extent a response is required, Lawgix Lawyers admits that venue is proper in this Court for purposes of this action only.

PARTIES

5. Lawgix Lawyers admits the allegations in Paragraph 5 upon information and belief.

6. Lawgix Lawyers admits the allegations in Paragraph 6 upon information and belief.

7. Lawgix Lawyers admits that it is a debt collection law firm. Lawgix Lawyers denies the remaining allegations in Paragraph 7.

8. In response to Paragraph 8, Lawgix Lawyers admits that Lawgix, Inc. is incorporated under the laws of the State of Delaware and that it does business in the locations alleged. Lawgix Lawyers denies the remaining allegations in Paragraph 8.

9. Lawgix Lawyers admits the allegations in Paragraph 9.

10. Lawgix Lawyers denies that it, Lawgix, Inc. and Michael D. Johnson, Esq. (“Johnson”) are related entities and denies the propriety of Plaintiff’s referral to Lawgix Lawyers, Lawgix, Inc. and Michael D. Johnson, Esq. collectively throughout his Complaint as Defendant Lawgix. Lawgix Lawyers affirmatively alleges that it and Lawgix, Inc. are

entirely distinct businesses and that Michael D. Johnson, Esq. is an attorney employed by Lawgix Lawyers.

FACTUAL ALLEGATIONS

11. Lawgix Lawyers lacks sufficient information or knowledge to form a belief as to the allegations in Paragraph 11 and therefore denies them.

12. To the extent Paragraph 12 asserts a legal conclusion, no response is required. Lawgix Lawyers lacks sufficient information or knowledge to form a belief as to the remaining allegations in Paragraph 12 and therefore denies them.

13. Lawgix Lawyers admits the allegations in Paragraph 13 upon information and belief.

14. In response to Paragraph 14, Lawgix Lawyers admits Plaintiff and Ann Imholte “were sued in Ramsey County District Court” under case file 62-cv-11-9259. Lawgix Lawyers further admits that Ann Imholte was “sued in Ramsey County District Court” under case file 62-cv-11-9254. Lawgix Lawyers denies that Plaintiff was “sued in Ramsey County District Court” under case file 62-cv-11-9254. Lawgix Lawyers lacks sufficient information or knowledge to form a belief as to the remaining allegations in Paragraph 14 and therefore denies them.

15. In response to Paragraph 15, Lawgix Lawyers admits that a judgment was entered against Plaintiff and Ann Imholte in case file 62-cv-11-9259. Lawgix Lawyers admits that a judgment was entered against Ann Imholte in case file 62-cv-11-9254. Lawgix Lawyers denies that a judgment was entered against Plaintiff in case file 62-cv-11-9254.

16. Lawgix Lawyers lacks sufficient information or knowledge to form a belief as to the allegations contained in Paragraph 16 and therefore denies them.

17. Lawgix Lawyers denies the allegations in Paragraph 17.

18. In response to Paragraph 18, Lawgix Lawyers admits that it used a process server to serve a Summons and Complaint on Plaintiff on or around the date alleged. Lawgix Lawyers denies the remaining allegations in Paragraph 18.

19. Lawgix Lawyers lacks sufficient information or knowledge to form a belief as to the allegations in Paragraph 19 and therefore denies them.

20. Lawgix Lawyers lacks sufficient information or knowledge to form a belief as to the allegations in Paragraph 20 and therefore denies them.

21. Lawgix Lawyers denies the allegations in Paragraph 21.

22. To the extent Paragraph 22 asserts a legal conclusion, no response is required. To the extent a response is required, Lawgix Lawyers denies the allegations in Paragraph 22.

23. In response to Paragraph 23, Lawgix Lawyers admits that Michael D. Johnson, Esq. is an attorney licensed and practicing law in the State of Minnesota, and that he does not practice law in Pennsylvania. Lawgix Lawyers denies the remaining allegations in Paragraph 23.

24. Lawgix Lawyers admits the allegations in Paragraph 24.

25. Lawgix Lawyers lacks sufficient information or knowledge to form a belief as to the allegations in Paragraph 25 and therefore denies them.

26. Lawgix Lawyers denies the allegations in Paragraph 26.

27. Lawgix Lawyers denies the allegations in Paragraph 27.
28. Lawgix Lawyers denies the allegations in Paragraph 28.
29. Lawgix Lawyers denies the allegations in Paragraph 29.
30. Lawgix Lawyers denies the allegations in Paragraph 30.

TRIAL BY JURY

31. Paragraph 31 is Plaintiff's jury demand and does not contain allegations to which a response is required.

CLASS ACTION DEMANDS

32. Lawgix Lawyers denies the allegations in Paragraph 32.
33. In response to Paragraph 33, Lawgix Lawyers admits that it files lawsuits in Minnesota state courts, the aim of which is to collect unpaid debts. Lawgix Lawyers denies the remaining allegations in Paragraph 33.
34. In response to Paragraph 34, Lawgix Lawyers denies that certification of any class is appropriate, and further denies that Plaintiff is qualified to assert a claim on behalf of a class in this case.
35. In response to Paragraph 35, Lawgix Lawyers denies that certification of any class is appropriate, and further denies that Plaintiff is qualified to assert a claim on behalf of a class in this case.
36. Paragraph 36 does not contain allegations against Lawgix Lawyers, and therefore, no response is required.
37. Paragraph 37 does not contain allegations against Lawgix Lawyers, and therefore, no response is required.

38. Paragraph 38 does not contain allegations against Lawgix Lawyers, and therefore, no response is required.

39. Lawgix Lawyers denies the allegations in Paragraph 39.

40. In response to Paragraph 40, Lawgix Lawyers admits that it conducts debt collection activities in and has filed lawsuits in Minnesota, the aim of which is to collect unpaid debts.

41. Lawgix Lawyers denies the allegations in Paragraph 41.

42. Lawgix Lawyers denies the allegations in Paragraph 42. Lawgix Lawyers further denies that there are common issues of law or fact or that any such common issues predominate over individualized issues. Lawgix Lawyers further denies that Plaintiff's claims are otherwise appropriate for class treatment and that Plaintiff is qualified to assert a claim on behalf of a class in this case. By way of further answer, Lawgix Lawyers denies that it violated the FDCPA or otherwise acted unlawfully with respect to Plaintiff and/or members of the putative classes, the existence of which is denied.

43. Lawgix Lawyers denies the allegations in Paragraph 43. Lawgix Lawyers further denies that there are common issues of law or fact or that any such common issues predominate over individualized issues. Lawgix Lawyers further denies that Plaintiff's claims are otherwise appropriate for class treatment and that Plaintiff is qualified to assert a claim on behalf of a class in this case.

44. Lawgix Lawyers denies the allegations in Paragraph 44. Lawgix Lawyers further denies that there are common issues of law or fact or that any such common issues predominate over individualized issues. Lawgix Lawyers further denies that Plaintiff's

claims are otherwise appropriate for class treatment and that Plaintiff is qualified to assert a claim on behalf of a class in this case.

45. Lawgix Lawyers denies the allegations in Paragraph 45. Lawgix Lawyers further denies that the named Plaintiff's claims are typical of the proposed class members or that Plaintiff's claims are otherwise appropriate for class treatment. Lawgix Lawyers further denies that Plaintiff is qualified to assert a claim on behalf of a class in this case. By way of further answer, Lawgix Lawyers denies that it violated the FDCPA or otherwise acted unlawfully with respect to Plaintiff and/or members of the putative class, the existence of which is denied.

46. Lawgix Lawyers denies the allegations in Paragraph 46.

47. Lawgix Lawyers lacks sufficient information or knowledge to form a belief as to whether "an extensive investigation of Defendant Lawgix Lawyers' alleged misconduct" was performed and therefore denies the allegations in Paragraph 47. Lawgix Lawyers further denies that it has engaged in any misconduct.

48. To the extent Paragraph 48 asserts a legal conclusion, no response is required. To the extent a response is required, Lawgix Lawyers denies the allegations in Paragraph 48. Lawgix Lawyers further denies that it violated the FDCPA or otherwise acted unlawfully with respect to Plaintiff and/or members of the putative classes, the existence of which is denied.

49. The allegations of Paragraph 49 do not contain allegations against Lawgix Lawyers, and therefore, no response is required.

50. The allegations of Paragraph 50 do not contain allegations against Lawgix Lawyers, and therefore no response is required. To the extent that a response is required, Lawgix Lawyers lacks sufficient information or knowledge to form a belief as to the allegations in Paragraph 50 and therefore denies them.

51. The allegations of Paragraph 51 do not contain allegations against Lawgix Lawyers, and therefore, no response is required. To the extent that a response is required, Lawgix Lawyers lacks sufficient information or knowledge to form a belief as to the allegations in Paragraph 51 and therefore denies them.

52. Lawgix Lawyers denies the allegations in Paragraph 52. Lawgix Lawyers further denies that there are common issues of law or fact or that any such common issues predominate over individualized issues. Lawgix Lawyers further denies that Plaintiff is qualified to assert a claim on behalf of a class in this case. By way of further answer, Lawgix Lawyers denies that it violated the FDCPA or otherwise acted unlawfully with respect to Plaintiff and/or members of the putative classes, the existence of which is denied.

53. Lawgix Lawyers denies the allegations in Paragraph 53. Lawgix Lawyers further denies that there are common issues of law or fact or that any such common issues predominate over individualized issues. Lawgix Lawyers further denies that Plaintiff is qualified to assert a claim on behalf of a class in this case. By way of further answer, Lawgix Lawyers denies that it violated the FDCPA or otherwise acted unlawfully with respect to Plaintiff and/or members of the putative classes, the existence of which is denied.

54. Lawgix Lawyers lacks sufficient information or knowledge to form a belief as to the allegations in Paragraph 54 and therefore denies them.

55. To the extent Paragraph 55 asserts a legal conclusion, no response is required. To the extent a response is required, Lawgix Lawyers denies the allegations in Paragraph 55. Lawgix Lawyers further denies that a class action is a superior method of adjudicating the alleged controversy. Lawgix Lawyers further denies that Plaintiff is qualified to assert a claim on behalf of a class in this case.

56. Lawgix Lawyers denies the allegations in Paragraph 56. Lawgix Lawyers further denies that it violated the FDCPA or otherwise acted unlawfully with respect to Plaintiff and/or members of the putative classes, the existence of which is denied.

57. Lawgix Lawyers denies the allegations in Paragraph 57. Lawgix Lawyers further denies that it violated the FDCPA or otherwise acted unlawfully with respect to Plaintiff and/or members of the putative classes, the existence of which is denied.

**COUNT I: VIOLATIONS OF THE FDCPA
AGAINST DEFENDANTS LAWGIX (INCLUDING DEFENDANT JOHNSON)**

58. Lawgix Lawyers incorporates its responses to Paragraphs 1 through 57 as if fully stated herein.

59. Lawgix Lawyers denies the allegations in Paragraph 59.

60. Lawgix Lawyers denies the allegations in Paragraph 60.

61. Lawgix Lawyers denies the allegations in Paragraph 61.

62. Lawgix Lawyers denies the allegations in Paragraph 62.

63. Lawgix Lawyers denies the allegations in Paragraph 63.

**COUNT TWO: INVASION OF PRIVACY – INTRUSION UPON SECLUSION
AGAINST ALL DEFENDANTS**

64. Lawgix Lawyers incorporates its responses to Paragraphs 1 through 63 as if fully stated herein.

65. Lawgix Lawyers denies the allegations in Paragraph 65.

66. Lawgix Lawyers denies the allegations in Paragraph 66.

67. Lawgix Lawyers denies the allegations in Paragraph 67.

68. Lawgix Lawyers denies the allegations in Paragraph 68.

COUNT THREE: ABUSE OF PROCESS

69. Lawgix Lawyers incorporates its responses to Paragraphs 1 through 68 as if fully stated herein.

70. Paragraph 70 does not contain allegations against Lawgix Lawyers and therefore no response is required.

71. Paragraph 71 does not contain allegations against Lawgix Lawyers and therefore no response is required.

72. Paragraph 72 does not contain allegations against Lawgix Lawyers and therefore no response is required.

73. Paragraph 73 does not contain allegations against Lawgix Lawyers and therefore no response is required.

74. Paragraph 74 does not contain allegations against Lawgix Lawyers and therefore no response is required.

**COUNT FOUR: MALICIOUS PROSECUTION
AGAINST DEFENDANT US BANK**

75. Lawgix Lawyers incorporates its responses to Paragraphs 1 through 74 as if fully stated herein.

76. Paragraph 76 does not contain allegations against Lawgix Lawyers and therefore no response is required.

77. Paragraph 77 does not contain allegations against Lawgix Lawyers and therefore no response is required.

78. Paragraph 78 does not contain allegations against Lawgix Lawyers and therefore no response is required.

79. Paragraph 79 does not contain allegations against Lawgix Lawyers and therefore no response is required.

80. Paragraph 80 does not contain allegations against Lawgix Lawyers and therefore no response is required.

81. Paragraph 81 does not contain allegations against Lawgix Lawyers and therefore no response is required.

**LAWGIX LAWYERS' ANSWER TO PLAINTIFF'S PRAYER FOR RELIEF AND
WHEREFORE CLAUSES**

1. Lawgix Lawyers denies that Plaintiff is entitled to any relief, including the relief requested in the "WHEREFORE" clauses of the Complaint. Further, each and every allegation in the Complaint that is not specifically and unequivocally admitted is denied.

AFFIRMATIVE DEFENSES

1. Plaintiff's Complaint fails to state a claim upon which relief can be granted.
2. Plaintiff's claims are barred because Lawgix Lawyers complied with all applicable provisions of the FDCPA.
3. Lawgix Lawyers denies any liability; however, regardless of liability, Plaintiff has suffered no actual damages as a result of Lawgix Lawyers' purported violations.
4. Assuming that Plaintiff suffered any damages, Plaintiff has failed to mitigate his damages or take other reasonable steps to avoid or reduce his damages.
5. The information contained in the US Bank complaint against Plaintiff was not false, deceptive or misleading. The address provided for Lawgix Lawyers is in fact the headquarters of Lawgix Lawyers. The attorney who signed the complaint is in fact a Minnesota-licensed attorney with the bar number provided therein. Likewise, the phone number provided does in fact allow parties calling that number to easily access both Lawgix Lawyers and US Bank as stated.
6. If the FDCPA was violated, the same being specifically denied, the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. Lawgix Lawyers affirmatively alleges that it entered into a contract (the "Contract") with US Bank prior to 2019 to represent US Bank in debt-collection litigation matters. Lawgix Lawyers further affirmatively alleges that it had a good-faith belief in the veracity of the allegations in the complaint it served on Plaintiff at the time it was served.

7. The commencement and service of a lawsuit on Plaintiff did not constitute a substantial or highly intrusive interference with Plaintiff's privacy and seclusion.

8. This action is not appropriate for certification as a class action, because the requirements of Rule 23 of the Federal Rules of Civil Procedure are not met.

9. Certification of this case as a class action would violate the Due Process rights of Lawgix Lawyers and the putative class members under the U.S. Constitution.

10. Lawgix Lawyers reserves the right to amend or supplement this Answer and to raise any additional defenses that Lawgix Lawyers may become aware of through discovery or otherwise.

WHEREFORE, Lawgix Lawyers respectfully requests that the Court enter judgment in its favor and against Plaintiff, dismiss with prejudice Plaintiff's Complaint, and award Lawgix Lawyers its reasonable attorneys' fees and costs of suit, together with such other relief as the Court may determine appropriate.

Respectfully submitted,

Dated: September 3, 2019

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